Supreme Court, U.S.
FILED
JUL 10 1989
JOSEPH F. SPANIOL, JR.
CLERK

No. 88-1958

In The

Supreme Court of the United States

October Term, 1988

SUPREME BEEF PROCESSORS, INC.,

Appellant,

v.

ROBERT YAQUINTO, JR., TRUSTEE FOR CARAVAN REFRIGERATED CARGO, INC.,

Respondent.

ON MOTION FOR LEAVE TO FILE BRIEF FOR AMICUS CURIAE

BRIEF IN OPPOSITION TO MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEFS

Louis J. Wade
Counsel of Record
Culp & Wade
1627 Main, Suite 404
Kansas City, Missouri 64108
(816) 842-2999

Robert Yaquinto, Jr.
Sherman and Yaquinto
509 N. Montclair
Dallas, Texas 75208
(214) 942-5502

Counsel for Respondent

July 7, 1989

COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

OPPOSITION TO MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF

Four (4) separate organizations have filed Motions for Leave to File an *Amicus Curiae* Brief. Three (3) of the groups have filed a joint Motion and Brief and the fourth group has filed a separate Motion and Brief. Leave to file the *Amicus Curiae* Briefs should be denied.

Pursuant to Supreme Court Rule 36.3, an *Amicus* brief should only be allowed where the interests of the applicant, or questions of law presented by the applicant, have not or will not adequately be represented by the parties to the pending litigation. The proposed *Amicus* briefs present nothing new or different. In fact, appendices C and D in the brief filed by the Shippers National Freight Claims Council, Inc. ("Council") are virtually identical to Petitioner's Appendices G and H. Council's Appendices A and B provide nothing different than what Petitioner has already argued.

The arguments raised by both briefs focus narrowly on the question of unreasonable practices and referral to the ICC. Both briefs argue for referral to the ICC under the doctrine of primary jurisdiction. These arguments simply duplicate the arguments already made, at length, by Petitioner.

Applicants offer no basis for granting the Motions to file *Amicus* Briefs. The Motions for Leave to file *Amicus* briefs should be denied.

CULP & WADE

By: Louis J. Wade/MoBar 29034
1627 Main, Suite 404
Kansas City, Missouri 64108
(816) 842-2999

SHERMAN AND YAQUINTO

By: Robert Yaquinto, Jr.
509 N. Montclair
Dallas, Texas 75208

Attorney for Respondent